

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

ORDER NO. R2-2004-0059

NPDES PERMIT NO. CAS0029912

AMENDMENT REVISING ORDER NO. 99-058, AS AMENDED, FOR:

CONTRA COSTA COUNTY, CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, CITY OF CLAYTON, CITY OF CONCORD, TOWN OF DANVILLE, CITY OF EL CERRITO, CITY OF HERCULES, CITY OF LAFAYETTE, CITY OF MARTINEZ, TOWN OF MORAGA, CITY OF ORINDA, CITY OF PINOLE, CITY OF PITTSBURG, CITY OF PLEASANT HILL, CITY OF RICHMOND, CITY OF SAN PABLO, CITY OF SAN RAMON, CITY OF WALNUT CREEK, which have joined to form the CONTRA COSTA CLEAN WATER PROGRAM.

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter referred to as the Regional Board), finds that:

FINDINGS

1. Incorporation of Fact Sheet: The Fact Sheet for the Contra Costa Clean Water Program NPDES Permit Amendment includes cited references and additional explanatory information in support of the requirements of this Amendment. This information, including any supplements thereto, and any future response to comments on the Tentative Order, is hereby incorporated by reference.
2. Existing Orders:
 - The Regional Board adopted Order No. 99-058 (the Permit) on July 21, 1999, reissuing waste discharge requirements under the National Pollutant Discharge Elimination System (NPDES) for Contra Costa County, Contra Costa County Flood Control and Water Conservation District, and the sixteen cities and towns in the County, as named above (hereinafter referred to collectively as the Dischargers and individually as the Discharger).
 - On February 19, 2003, the Regional Board adopted Order No. R2-2003-0022, amending Provision C.3 (New and Redevelopment Component) to the Permit.
3. In August 1999, the San Francisco BayKeeper and Just Economics for Environmental Health filed petitions for review of Order No. 99-058 by the State Water Resources Control Board (the State Board). After careful consideration, the State Board dismissed the petitions on April 4, 2001.

4. In 2001, San Francisco BayKeeper filed a lawsuit in San Francisco County Superior Court challenging the Regional Board's adoption of the Permit. On November 14, 2003, the Court upheld the permit on most counts; however, it issued a Writ of Mandate requiring the Regional Board to amend the Permit in compliance with the Court's Statement of Decision, which held:
 - (a) The Permit fails to include a monitoring program and must therefore specify required monitoring including type, interval, and frequency sufficient to yield data which are representative of the monitored activity;
 - (b) Because the Stormwater Management Plan (Plan) is incorporated and is deemed an integral part of the Permit, modifications to the Plan are modifications to the Permit and have to go through a public notice and comment process unless the modifications are minor; and
 - (c) The Regional Board, not the Executive Officer, must approve substantive modifications to the Plan.

This Order is therefore necessary to amend the Permit and to comply with the Court's Writ of Mandate.

5. In accordance with the Permit provisions, there have been some administrative revisions to the Plan that were not subjected to a public process and Board action contrary to the Court's Statement of Decision. Therefore, this Order formally rescinds and vacates those unauthorized Plan revisions, which are described in the separate order referenced below. The Board will act to formally adopt these revisions and any other pending requests for Plan revisions by a separate order to be considered at the same hearing date this amendment is considered for adoption.
6. The Dischargers' monitoring program plans, which include programmatic monitoring and watershed assessment and monitoring, are outlined Attachment A, "The Contra Costa Monitoring and Assessment Plan (CCMAP)", Attachment B, "Summary of Monitoring Activities Described in the CCMAP", and Attachment C, "Programmatic Monitoring Table" (collectively, the Monitoring Requirements) of this amendment. This amendment will add the Monitoring Requirements to the Permit, as required by the Court. The Monitoring Requirements will be re-evaluated and revised as necessary to provide data representative of the stormwater discharge at the time the Permit is ready for reissuance.
7. This action to modify an NPDES permit is exempt from the provisions of the California Environmental Quality Act (Division 13 of the Public Resources Code, Chapter 3, Section 21100, et.seq.) in accordance with Section 13389 of the California Water Code.
8. The Dischargers and interested agencies and persons have been notified of the Regional Board's intent to modify waste discharge requirements for the existing discharge and have been provided opportunities for public meetings and to submit their written views and recommendations.

9. The numbering of the provisions of Order No. 99-058 was shifted from C.3 – C.15 to C.4 – C.16 when Provision C.3 was added by Order No. R2-2003-022 in 2003. This amendment employs the revised numbering.

IT IS HEREBY ORDERED that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted hereunder and the provisions of the Clean Water Act as amended and regulations and guidelines adopted hereunder, shall comply with the following revisions:

Any and all administrative changes to the Plan that have been made under the terms of the Permit that were not subject to a public process or Regional Board action are hereby rescinded and vacated and the following Permit provisions are modified as follows and shown in redline/strike-out format:

Finding 19 of Order No. 99-058: The Regional Board will notify interested agencies and persons of the availability of reports, plans, and schedules, including Annual Reports, Work Plans, Performance Standards, and the Plan, and will provide them with an opportunity for a public hearing and/or opportunity to submit written views and recommendations. The Regional Board will consider all comments and may modify the reports, plans, or schedules or may modify this Order in accordance with the NPDES permit regulations. ~~All submittals required by the Order conditioned with acceptance by the Executive Officer will be subject to these notifications, comment, and public hearing procedures.~~

- C.2. In accordance with Provision C.1 and Finding 12, the dischargers shall submit a technical report to the Regional Board on exceedances of WQS for copper, nickel, mercury, chlordane, DDT, dieldrin, PCBs, dioxin, and diazinon. A draft scope of work, report ~~acceptable to the Executive officer~~ outline, and budget for the report(s) shall be submitted by November 1, 1999. An interim draft report shall be submitted by April 1, 2000, and a final report shall be submitted by September 1, 2000. The reports shall include, but need not be limited to, the following:

- a) Identification of potential sources for pollutants of concern that are found in stormwater discharges;
- b) Evaluation of effectiveness of BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce the above listed pollutants that are causing or contributing to the exceedance of WQSs;
- c) Characterization of representative drainage areas and stormwater discharges, including land-use characteristics, pollutant concentrations and forms; and loadings; and;

- d) A pollution prevention and control measures plan for pollutants listed above ~~that is acceptable to the Executive Officer~~, which assigns responsibilities and establishes time schedules to implement pollutant reduction and control measures beginning no later than July 1, 2001. Upon approval by the ~~Executive Officer~~ Regional Board, the revised control measures plan shall be incorporated into the Stormwater Management Plan, in accordance with C.12.

C.6 (formerly C.5). Annual Reports: The dischargers shall submit an Annual Report, by September 1, of each year, documenting the status of the Program's and the Dischargers' activities during the previous fiscal year, including the results of a qualitative field level assessment of activities implemented by the Dischargers, and the performance of tasks contained in the Plan. The Annual Report shall include a compilation of deliverables and milestones completed as described in the Plan. In each Annual Report, the Dischargers may propose pertinent updates, improvements, or revisions to the Plan, which the Regional Board shall act ~~shall be complied with under this Order unless disapproved by the Executive Officer or acted upon in accordance with Provision C.12.~~ As part of the Annual Report preparation process, each of the Dischargers shall conduct an overall evaluation of the effectiveness of its applicable activities described in the Plan. Direct and indirect measures of effectiveness may include, but are not limited to, conformance with established Performance Standards, quantitative monitoring to assess the effectiveness of BMPs, measurements of estimates of pollutant load reductions, detailed accounting of Program accomplishments, funds expended, and staff hours utilized. Methods to improve effectiveness in the implementation of tasks and activities, including development of new, or modification of existing Performance Standards and/or development of new performance standards shall be identified where appropriate.

C.8 (formerly C.7). The Executive Officer may approve the Program's aAnnual rReport format; however, as set forth in Provision C.6, the Regional Board shall act on Annual Reports that propose to modify the Plan as Plan modifications in accordance with Provision C.12. ~~shall be deemed to be final and incorporated into the Plan and enforceable under this Order as of July 1 of each year unless determined to be unacceptable by the Executive Officer.~~ The Dischargers shall address any comments or conditions of acceptability received from the Executive Officer on the Program's aAnnual rReport format, prior to the submission of their Annual Report on September 1 of each year, or at an earlier date if so specified by the Executive Officer. ~~, at which time the annual report format shall be deemed to be incorporated into the Plan and this Order, unless disapproved of by the Executive Officer~~

C.9 (formerly C.8). The Dischargers shall comply with the Monitoring Requirements provided in Attachments A, B, and C of this Order, which are incorporated herein by this reference. Reports on the progress and results of the Monitoring Requirements shall be submitted yearly with the Annual Reports. Monitoring Program: The Dischargers shall submit, by September 1 of each year, an annual Monitoring Program Plan acceptable to the Executive Officer that supports the development and

~~implementation and demonstrates the effectiveness of their Plan. The Monitoring Program Plan shall be designed to achieve the following objectives:~~

- ~~• Characterization of representative drainage areas and stormwater discharges, including land use characteristics, pollutant concentrations, and mass loadings;~~
- ~~• Assessment of existing or potential adverse impacts on beneficial uses caused by pollutants of concern in stormwater discharges, including an evaluation of representative receiving waters;~~
- ~~• Identification of potential sources of pollutants of concern found in stormwater discharges; and~~
- ~~• Evaluation of effectiveness of representative stormwater pollution prevention or control measures.~~

~~The Monitoring Program Plan shall include the following:~~

- ~~a. Provisions for conducting and reporting the results of special studies conducted by the CCCWP or Dischargers which are designed to determine effectiveness of best management practice or control measures, define a Performance Standard or assess the adverse impact of a pollutant or pollutants on beneficial uses.~~
- ~~b. Provisions for conducting watershed monitoring activities including: identification of major sources of pollutants of concern; evaluation of the effectiveness of control measures and best management practices; and use of physical, chemical, and biological parameters and indicators as appropriate.~~
- ~~c. Identification and justification of representative sampling locations, frequencies and methods, suite of pollutants to be analyzed, analytical methods, and quality assurance procedures. Alternative monitoring methods in place of these (special projects, financial participation in regional, state, or national special projects or research, literature review, visual observations, use of indicator parameters, recognition and reliance on special studies conducted by other programs, etc.) may be proposed with justification. Alternative monitoring methods may include participation in Bay Area Stormwater Management Agencies Association's Monitoring Programs or Projects.~~

C.11 (formerly C.10). a. Non-Stormwater Discharges (Exempted Discharges): In carrying out Discharge Prohibitions A.1 and A.2 of this Order, the following non-stormwater discharges are not prohibited unless they are identified by the Discharger or the Regional Board Executive Officer as sources of pollutants to receiving waters:

- flows from riparian habitats or wetlands;
- diverted stream flows;
- springs;
- rising groundwater; and
- Uncontaminated groundwater infiltration.

If any of the above categories of discharges, or sources of such discharges, are identified as sources of pollutants to receiving waters, then such categories or sources shall be addressed as conditionally exempted discharges in accordance with Provision C.11.b.

b. Conditionally Exempted Discharges: The following non-stormwater discharges are not prohibited if they are either identified by the Discharger or the Regional Board Executive Officer as not being sources of pollutants to receiving waters or if appropriate control measures to minimize the adverse impacts of such sources are developed and implemented under the Stormwater Management Plan in accordance with Provision C.11.c.:

- uncontaminated pumped groundwater;
- foundation drains;
- water from crawl space pumps;
- footing drains;
- air conditioning condensate;
- irrigation water;
- landscape irrigation;
- lawn or garden watering;
- planned and unplanned discharges from potable water sources;
- water line and hydrant flushing;
- individual residential car washing; and
- discharges or flows from emergency fire fighting activities;
- dechlorinated swimming pool discharges.

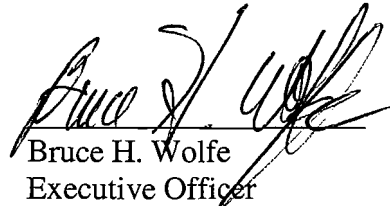
c. The Dischargers shall identify and describe the categories of discharges listed in C.11.b which they wish to exempt from Prohibition A.1 in periodic submissions to the Regional Board Executive Officer. For each such category, the Discharger shall identify and describe as necessary and appropriate to the category either documentation that the discharges are not sources of pollutants to receiving waters or circumstances in which they are not found to be sources of pollutants to receiving waters. Otherwise, the Discharger shall describe control measures to reduce pollutants that will eliminate the adverse impacts of such sources, procedures and Performance Standards for their implementation, procedures for notifying the Regional Board of these discharges, and procedures for monitoring and record management. The Regional Board shall act on such submissions and incorporate any approved exempted categories and control and implementation measures shall be deemed to be incorporated into the Plan unless disapproved by the Executive Officer or acted on in accordance with Provision C.12 and the NPDES permit regulations.

d. Permit Authorization for Exempted Discharges

- i. Discharges of non-stormwater from sources owned or operated by the Discharger are authorized and permitted by this Order, if they are in accordance with the conditions of this provision and the Plan.
- ii. The Regional Board may require dischargers of non-stormwater other than the Discharger to apply for and obtain coverage under an NPDES permit and comply with the control measures developed by the Discharger pursuant to Provision C.11. Non-stormwater discharges that are in compliance with such control measures may be accepted by the Discharger and are not subject to Prohibition A.1.
- iii. The Discharger may propose, as part of their annual updates to the Plan under Provision C.6 of this Order, additional categories of non-stormwater discharges to be included in the exemption to Discharge Prohibition A.1. Such proposals are subject to approval only by modification of this permit.

C.12 (formerly C.11) It is anticipated that the Plan may need to be modified, revised, or amended from time to time to respond to new information, changed conditions and to incorporate more effective approaches to pollutant control. Requests for changes may be initiated by the Executive Officer or by the Dischargers. Any such changes to the Plan, which is an integral and enforceable part of this Order as set forth in Finding No. 7 of Order No. 99-058, will be made in accordance with applicable State and federal regulations for permit modifications. ~~Minor changes may be made with the Executive Officer's approval and will be brought to the Regional Board as information items and the Dischargers and interested parties will be notified accordingly. If proposed changes involve major revision of the Program, the Executive Officer shall bring such changes before the Regional Board as permit amendments and notify the Dischargers and interested parties accordingly.~~

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 21, 2004.


Bruce H. Wolfe
Executive Officer

Attachment A: The Contra Costa Monitoring and Assessment Plan (CCMAP)
Attachment B: Summary of Monitoring Activities Described in the CCMAP
Attachment C: Programmatic Monitoring Table